

REMARKS

Reconsideration and withdrawal of the rejection and the allowance of all claims now pending in the above-identified patent application (i.e., Claims 18-37) are respectfully requested in view of the foregoing amendments and the following remarks.

At the outset, it should be recalled that the present invention provides a barrier section, whereby a plurality of such barrier sections are able be lined up end-to-end (or side-to-side) to create a modular barrier for use, for example, on roads for traffic control. Conventional modular barriers consists of a plurality of barrier sections with each such section having a comparatively narrow upright portion surmounted by a comparatively wide base portion. When two such barrier sections are lined up end-to-end, metallic ties can be used to attach one barrier section to an adjacent barrier section, often via the formation of a makeshift hinge. Because the base portions of conventional barrier sections are relatively wide, as compared with the narrower upright portions, the hinge-point at which the metallic ties are bolted to one another is spaced some distance away from the ends of adjacent barrier sections. This is to allow a reasonable degree of angular movement between adjacent barrier sections, but does result in the ends of adjacent barrier sections being unable to lie flush with one another. As

adjacent barrier sections deviate more and more from being in a linear arrangement, a gap opens between the edges of adjacent base portions that lie toward the outside of the bend that the modular barrier is following. This opening, or gap, can act as a wheel trap for unwary motorists. The same problem exists with barriers used for crowd control, except in the circumstance of crowd control, the gap constitutes a tripping hazard.

The presently claimed invention provides a modular barrier having a plurality of barrier sections, in which no gaps are opened between adjacent barrier sections. The barrier sections of the present invention comprise a comparatively narrow upright portion having one or more projections at each end and a comparatively wide base portion including, at a female end of the barrier section, a nose having a surface that is a surface of rotation of the profile of the base portion and, at a male end, a correspondingly shaped cavity, in which, when the female end of the barrier section is brought up to a male end of another, or adjacent, barrier section, the respective projections mate with one another, allowing a hinge pin to be passed through the projections for articulating the adjacent barrier sections with one another. Because the nose of one barrier section is accommodated in the cavity of an adjacent barrier section, a gap is prevented from forming between the base portions of adjacent barrier sections, irrespective of the angle of articulation between such adja-

cent sections. No gaps are, therefore, created as the nose rotates within a corresponding cavity of an adjacent barrier section.

As will be explained in greater detail hereinafter, nowhere in the prior art is such a novel and safe modular barrier, comprised of barrier sections that are able to rotate relative to adjacent barrier sections without opening a gap between base portions of said barrier sections, either disclosed or suggested.

By the present amendments, Applicant has cancelled prior Claims 1-14 (Claims 15-17 having been previously cancelled) and has substituted therefor new Claims 18-37, of which Claims 18, 25 and 34 are presented in independent form. All newly presented independent claims recite that there are surfaces of rotation between the nose and cavity portions of adjacent barrier sections that allow for adjacent barrier sections to be articulated relative to one another without creating any gap between the base portions of adjacent sections, irrespective of the angle of articulation. This differs from that disclosed by the prior art, in that a gap is formed between adjacent barrier sections when respective base portions thereof are not linearly arranged.

Turning now, in detail, to an analysis of the Examiner's prior art rejection of Applicant's claims, in the first Office Action the Examiner has rejected the subject matter of

prior Claims 1-8, 13 and 14 (Claims 1 and 13 being the prior independent claims) as being anticipated, pursuant to 35 U.S.C. §102(b), by Thompson, U.S. Patent No. 4,681,302, on the contention that Thompson discloses a barrier section comprising a narrow upright portion having one or more projections at each end, a generally wide base portion, and respective male and female ends allowing for the formation of a modular barrier, etc. It is, in essence, the Examiner's contention that Thompson discloses all elements of the claims enumerated in the anticipation rejection.

In reply to the Examiner's anticipation rejection applying Thompson, the applied citation discloses a barrier having a plurality of sections which are illustrated, particularly in FIG. 1, as being lined up in a linear manner. Each barrier section is shown having an end wall (FIG. 1, 16; FIG. 3, 18) that is substantially planar with channels (34) and protuberances (36) vertically centered on each end wall for mating with complementary channels and protuberances on a side wall of an adjacent barrier section. A connecting pin (42) is able to be vertically inserted through the channels and protuberances for connecting, or articulating, adjacent barrier sections. Adjacent barrier sections are able to be arranged in a non-linear manner, after articulation, but only at the cost of creating a gap between the comparatively wide base portions of respective barrier sections. Specially configured couplers (Thompson, Col. 9, line 60 - Col. 10, line 3; FIG.

5, element "48") are disclosed by Thompson out of recognition that gaps are formed when the arrangement of barrier sections seeks to change direction for a strictly linear arrangement.

In sharp contrast to Thompson, the presently claimed invention avoids the occurrence of gaps between base portions of adjacent barrier sections by allowing for complementary surface of rotation to permit adjacent barrier sections to be non-linearly arranged without opening a gap, as is the case in Thompson. The gap created by adjacent barrier sections in Thompson must either remain or be closed with an additional coupler element, though, literally, even if a coupler element is used to bridge the gap in Thompson, a "closed gap" (and, therefore, a "gap") still remains between base portions of adjacent barrier elements.

Because the present invention, as now recited in independent Claims 18, 25 and 34 (and all remaining claims via dependency) recites a manner of rotation between adjacent barrier sections which avoids creating a gap between adjacent barrier sections, irrespective of the angle of articulation between such sections, it is respectfully submitted that Thompson cannot reasonably be seen as anticipating the instant invention, as now claimed.

Further, because Thompson teaches the use of a possible coupler element (48), which recognizes that a gap is created

between respective base portions of adjacent barrier sections, but does not disclose how such gap might outright be avoided without use of a separate coupler element, Thompson, it is respectfully contended, cannot properly be seen as rendering the presently claimed invention obvious.

In view of the foregoing, Applicant respectfully contends that the Examiner's 35 U.S.C. §102(b) anticipation rejection of the first Office Action, which applies Thompson, should now be withdrawn.

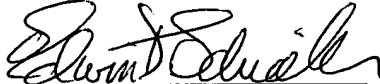
Concerning, finally, the remaining references made of record by the Examiner, but not applied in any rejection of Applicant's claims, such additional art references have been carefully considered, but are not believed to adversely affect the patentability of the present invention, as now claimed.

In light of the foregoing, it is respectfully contended that all claims now pending in the above-identified patent application (i.e., Claims 11-20) recite a novel and safe modular barrier, comprised of barrier sections that are able to rotate relative to adjacent barrier sections without opening a gap between base portions of said barrier sections, which is patentably distinguishable over the prior art. Accordingly, withdrawal of the outstanding rejection and

the allowance of all claims now pending are respectfully requested and earnestly solicited.

Respectfully submitted,

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Enc.: 1. Petition for Two-Month Extension of time; and,
2. Check for \$400.00 (Two-Month Extension Fee).

The Commissioner is hereby authorized to charge the Deposit Account of Applicant's Attorney, Account No. 19-0450, for any additional fees which may be due in connection with the prosecution of the present application, but which have not otherwise been provided for.